

whether external or party-walls, and to the fences and the party fence walls, and to the number and height of the stories or rooms therein, and to the chimneys, and to the roofs, and to the timbers, and to the drains, and to the projections, and to any other parts or appendages of every such building, in the manner and of the materials, and in every other respect in conformity with the several particulars, rules and directions which are specified and set forth in the several Schedules (C.), (D.), (E.), (F.), (G.), (H.), (I.), (J.), (K.), to this Act annexed, according to the classes of buildings, and the rules of such classes to which such buildings are by the Schedule (C.) declared to belong; subject nevertheless to any other rules and directions in this Act contained in the same behalf; and subject in every case of doubt, difference or dissension in respect thereof, either between any parties concerned or between any party concerned and the surveyor of the district, to the determination of the official referees, upon a reference of the matter in question, according to the provisions of this Act in that behalf.

Buildings under Supervision of Official Referees.

6. And be it enacted, with regard to all buildings of the sixth rate of the first or dwelling-house class, and to all buildings of the sixth rate of the second or warehouse class, and to all buildings of the third or public buildings class (except the buildings heretofore excepted), so far as relates to the supervision thereof, that, subject to the provisions in the Schedule (C.) and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the official referees, according to the provisions of this Act in that behalf, as well as under the ordinary supervision of the surveyor; and if any difference arise as to whether any such building be liable to such special supervision, the same shall be determined by the official referees; subject nevertheless to an appeal, at the instance of any party interested, to the Commissioners of Works and Buildings, whose decision in the matter shall be final.

Special Supervision of exempted Buildings.

7. And whereas, by several Acts now in force, certain buildings and structures have been exempted from the operation of the Act mentioned in the Schedule (A.) hereto annexed, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes and places therein mentioned; but forasmuch as provision is hereby made for the supervision of buildings of whatever kind, with a view to the public security, inasmuch that the reasons whereon such exemptions were made do not now apply; it is expedient to repeal such exemptions, and to make provision for such special supervision of such buildings as the nature thereof shall require; now for that purpose, be it enacted, with regard to the buildings heretofore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, that, notwithstanding any thing contained to the contrary in any Act or Acts now in force, every such building or other structure shall be subject to special supervision by the official referees, according to the provisions of this Act in that behalf.

Buildings not within Rate.

8. Provided always, and be it enacted, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rate of a class, so far as relates to the application of this Act thereto, that if any party be desirous of erecting any building which does not come within any one of the said classes, or of any rate of such classes, then such building shall be built in accordance to such class and rate as shall be directed by the surveyor, subject, in all other cases of doubt, difference or dissension, to an appeal to the official referees.

Modification of Building Contracts—Reference to Official Referees.

9. Provided always, and be it enacted, with regard to any building of whatever class, so far as relates to the modification of any written contract or agreement now in force for erecting or altering such building other than a contract or agreement in the nature of a building lease, that it shall not be lawful to execute such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled to deviate from such contract, so far as any part thereof may remain to be executed after this Act shall have come into operation; and the alterations and variations rendered necessary by this Act shall be performed as if this Act had been in force when this contract was entered into; and that if the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, and the works as stipulated for in such contract, then, upon notice being given in writing by one party to the other, it shall be lawful for either party, and he is hereby entitled, to refer the matter to the surveyor, who shall determine the same, subject to appeal as aforesaid to the official referees; and the award of such official referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; and the costs of the reference shall be borne by all, or any, or either of the parties, in such manner and proportion as the surveyor, or, in case of appeal, as the official referees, shall appoint.

Modification of Building Leases.

10. Provided also, and be it enacted, with regard to any building of whatever class, so far as relates to the modification of any lease, or agreement for a lease, being in force at the date of a building lease, whereby any one may be bound to erect buildings, that notwithstanding anything herein contained, it shall be the duty of such person, and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, without the lease or tenant being entitled to any compensation, whether by payment of money or reduction of rent or otherwise.

Commissioners of Works and Buildings empowered to modify Rules generally—Report of Official Referees—Extent of Modification—Representation by Parties—Order thereupon—Costs of Application.

11. And, for the purpose of preventing the expense provisions of this Act from hindering the adoption of improvements, and of providing for the adoption of expedients better adapted to accomplish the purposes thereof; be it enacted, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, that if, in the opinion of the official referees, the rules by this Act imposed shall be inapplicable, or will defeat the objects of this Act, or that the adoption of any modification of the rules hereby prescribed, its objects will be attained either better or so effectually, it shall be the duty of such official referees to report their opinion thereon, stating the grounds of such their opinion, to the Commissioners of Works and Buildings; and that, if on the investigation thereof it shall appear to the said commissioners that such opinion is well founded, then it shall be lawful for the said commissioners or any two of them to direct that such modification may be made as will, in their opinion, give effect to the purposes of this Act; and that although such official referees shall be of opinion that such modifications are not requisite or advisable, yet if any party interested present to the official referees a representation, setting forth the grounds whereon such modification is claimed, it shall be the duty of the official referees, and they are hereby required to report such representation, as well as their opinion thereon to the said commissioners, with the grounds of such their report and opinion; and that thereupon, if the said commissioners think fit, it shall be lawful for them or any two of them to direct the official referees to make such order in the matter as may appear to them to be requisite; and that, with regard to such application, so far as relates to the payment of the costs thereof, it shall be lawful for the said commissioners to direct such official referees to make such order relative to the costs of such reference to them, as to the said commissioners shall seem fit.

Power to modify provisions of the Act as to existing Buildings, to be rebuilt.

12. And be it enacted, with regard to buildings already built, so far as relates to the rebuilding thereof in conformity with this Act, in respect of the required area, or in any other respect than the required height and thickness of walls, that if a full compliance with the provisions of this Act be attended by extreme loss and inconvenience, then, subject to the report of the official referees, and to the consent of the commissioners of works and buildings, and such other conditions as the said commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as near as may be practicable, but so that, nevertheless, both the party walls and the external walls be of the required height and thickness.

SUBSIDIES.

Works to be Executed—Notice to Surveyors—Penalty for Neglect to give Notice, &c.—201. Penally for not giving fresh Notice—Penally for Beginning without Notice, or refusal to admit Surveyor.

13. And be it enacted, with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof, that the surveyor, ten days before the following acts or events, that is to say, before any building shall be begun to be built; and also, before any addition or alteration which by this Act is placed under the supervision of the surveyor, shall be made to any building; and also, before any party-wall, external wall, chimney-stack, or fence shall be begun to be built, pulled down, rebuilt, cut into, or altered; and also before any opening shall be made in any party-wall, and also, before any other matter or thing shall be done which by this Act is placed under the supervision of the surveyor; it shall be the duty of the builder (by which term it is to be understood, both in this provision and elsewhere throughout this Act, the master-builder or any other person employed to execute any work, or if there be no master-builder or other person so employed, then the owner of the building or other premises, or by whose order such work is to be done), and he is hereby required to give to the surveyor, at his office, notice in the terms specified in the form (Number D.) contained in the schedule of notices annexed to this Act, or to the like effect; and that if any builder neglect to give such notice, or begin to build, or do any of the things aforesaid, before such notice, or before the expiration of such period of two days, then, in every such case, the party offending shall forfeit for every such default, and pay to such

[For continuation see p. 131.]

The words, we think, should run—"When" "such contract was entered into."

We think this provision too arbitrary to become part of an English statute; it ought without doubt to be altered so as to be equitable to all parties concerned therein.

We think it possible that much good might arise from the enactment of such a provision, but for practical effect, more injuries and evils than good, would be the result; we fear it would lead to the commissioners and official referees being much troubled by applications from interested parties, to render inoperative the wholesome provisions of the Act. If such powers become statutory, we think it should also be enacted that the commissioners shall publish an account of every such case of deviation, in order that well-known rules of practice may speedily grow up and be rightly ordered as directory precedents.

The last observations apply to this clause.

We apprehend the words are intended to run thus:—"shall for each and every such default forfeit and pay for each and every such default."